

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 20, 2002**

REGULAR MEETING

9:00 A.M.

NOVEMBER 20, 2002

PRESENT:

COMMISSIONERS:	Gerald W. Smith, Chairman Jim Bagley, Vice Chairman Bob Colven James V. Curatalo, Alternate David Eshleman, Alternate	Jon D. Mikels Richard P. Pearson Bill Postmus A.R. "Tony" Sedano, Alternate Diane Williams
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STAFF: **James M. Roddy, Executive Officer
Kathleen Rollings-McDonald, Deputy Executive Officer
Clark H. Alsop, Legal Counsel
Debby Chamberlin, Clerk to the Commission**

ABSENT:

COMMISSIONERS: **Dennis Hansberger, Alternate**

REGULAR SESSION - CALL TO ORDER - 9:05 A.M.

Chairman Smith calls the regular session of the Local Agency Formation Commission to order. Commissioner Mikels leads the flag salute.

Chairman Smith requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

APPROVAL OF MINUTES FOR REGULAR MEETING OF OCTOBER 16, 2002

Chairman Smith calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Colven moves approval of the minutes as presented, seconded by Commissioner Pearson. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Mikels, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Postmus.

CONSENT ITEMS

LAFCO considers the item listed under its consent calendar, which Chairman Smith states is approval of the Executive Officer's Expense Report. Mr. Roddy announces that he has not prepared an expense report as he has no significant reportable expenses to submit at this time.

Chairman Smith states that with the consensus of the Commission, they will consider Item 10 before the other items.

DISCUSSION ITEM

DESIGNATE SPECIAL COUNSEL FOR REPRESENTATION OF COMMISSION FOR LAFCO 2911 - SPHERE OF INFLUENCE REVIEW (REDUCTION) FOR WEST SAN BERNARDINO COUNTY WATER DISTRICT (COYOTE CANYON SPECIFIC PLAN AREA) AND LAFCO 2912 - WEST SAN BERNARDINO COUNTY WATER DISTRICT DETACHMENT (COYOTE CANYON SPECIFIC PLAN AREA) AND DETERMINATION OF WHETHER LAFCO 2911 CONSTITUTES A MINOR SPHERE

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CHANGE AND IS EXEMPT FROM REQUIREMENT FOR SERVICE REVIEW AND CONSIDERATION OF REQUEST FOR WAIVER OF FILING FEES SUBMITTED ON BEHALF OF LANDOWNER LB/L - CPC COYOTE CANYON, LLC FOR LAFCO 2911 - DESIGNATE SPECIAL COUNSEL; DETERMINE THAT SERVICE REVIEW IS REQUIRED; DENY REQUEST FOR WAIVER OF FILING FEES FOR SPHERE REVIEW

LAFCO conducts a public hearing to consider preliminary action items related to LAFCO 2911 and LAFCO 2912, a sphere of influence review and proposed detachment from the West San Bernardino County Water District (hereinafter referred to as "the District".) Notice of this item was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area, and individual notification was provided to affected and interested agencies, County departments, and those individuals wishing mailed notice.

(It is noted that Commissioner Postmus arrives at 9:10 a.m.)

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy says staff suggested moving this item ahead since most of the people in the audience are here for it. He reports that the proposal was submitted by the landowners and developers of the proposed "Coyote Canyon" development that was annexed to the City of Fontana about a year ago. He discusses the background of that annexation, stating that there was controversy over the delivery of retail water service to the area, which is within the boundaries of the District, and says it became apparent that a four-party agreement among the District, San Bernardino Valley Municipal Water District, the Inland Empire Utilities Agency and the Metropolitan Water District of Southern California for the provision of retail water service to the area was necessary. He says staff recommended that execution of that agreement be a condition of the annexation; but he says the Commission, after hearing from a number of people who contended that the agreement would be completed within a few weeks, approved the annexation without the condition. Mr. Roddy reports that an agreement was never reached and that the District for several months after the annexation could not provide a timetable when it would be in a position to provide retail water service to the developing area. He says this made the developers and proponents frustrated because they needed immediate water service to accommodate the schedule for development and financing arrangements. He says this led to the developers initiating a proposal to detach Coyote Canyon from the District and allow it to be served by the Fontana Water Company. He says the Commission's consideration of the two applications may be presented in the next few months--the detachment proposal, as well as a sphere of influence study for the District, removing the area from the District's sphere.

Mr. Roddy says that because of the probable controversy, the developers and owners approached the City of Fontana (hereinafter referred to as "the City") for support in this detachment effort. He reports that a meeting was held among the developers, the City and the District regarding the terms by which the District would extend service to the area within a specified period of time in order to allay the concerns related to water service. He says at a public hearing the City Council adopted a resolution conditionally supporting the developers' efforts to detach if: (1) the District was not in a position to extend a water line to serve Coyote Canyon by December 15, 2002; (2) the four-party agreement was not reached by the end of the year; and (3) the District could not show it could provide alternative or supplemental retail service to the area. He says he understands that the developers have agreed to this timetable for the completion of these conditions and, if they are met, there would be some consideration to withdrawing the application, although he says that is not yet a firm decision.

Mr. Roddy states that staff is proceeding on the assessment that the two proposals will need to be scheduled for hearing, so today's preliminary actions must be taken. He discusses the first staff recommendation, which is that the Commission hire Jeff Goldfarb of Rutan & Tucker as Special Counsel, since the City of Fontana, which is conditionally a party in these issues, is also represented by LAFCO Legal Counsel Clark Alsop. Mr. Roddy discusses the second staff recommendation, which is that the Commission direct the District to provide the necessary information so that a service review can be conducted in conjunction with the sphere component of the Coyote Canyon application. He explains that the Commission adopted a policy to exempt minor sphere adjustments from the service review

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requirement if an area consists of less than 3% of the agency's existing sphere territory, and points out that the Coyote Canyon area is less than 3% of the District's existing sphere. He further explains, however, that the second criteria in the policy allows a waiver only if it is supported by the affected overlaying agencies. He says the Commission has been presented with a letter from the District indicating they do not support a waiver and believe they can present a case for continued service delivery through information to be provided during the service review. Mr. Roddy says the next recommendation is that the proponent's request for a waiver of the sphere filing fee be denied since the service review will be required. He explains that staff typically recommends a waiver in situations where the boundaries of the change are identical to those of the sphere adjustment. However, he says the service review element will require additional work, legal notices and environmental review, so staff recommends that the filing fee for the sphere issue be required.

Mr. Roddy discusses the developers' concern about the timeliness of the Commission review and that the process to gather information for the service review will be time-consuming and keep them from moving expeditiously on the development plans and construction. He says the District staff is concerned because they want to do a thorough job on preparing the information for the service review and they want to hire a consultant, and he says it will be difficult during the holidays to get information from affected County departments and agencies necessary for the review. He says all elements of the service review will also need to be incorporated into the environmental review to be undertaken by the Commission, which will be acting as a lead agency. Mr. Roddy says it appears that the first possible date for Commission consideration might be February 19. He says staff would need to receive the completed service review response no later than the middle of January and says he is pessimistic that schedule could be met. For that reason, he says staff is recommending that the Commission direct staff to work with the proponents, the District and other agencies to bring this issue to hearing hopefully on February 19, but with the understanding that on that date, there will be a status report, at least, on the progress of the District in providing the information for the service review.

Commissioner Colven asks whether development will stop if the process is not expeditious. Mr. Roddy responds that development will be stopped, but he adds that the District has moved forward on complying with the conditions in the City's resolution. He says he understands the only remaining issue is the intertie with Fontana Water Company or the extension of a secondary line into the area.

Chairman Smith opens the public hearing and calls on those wishing to speak.

Chris Campbell, a water attorney representing the developers of Coyote Canyon, states they agree with the first staff recommendation. He says that yesterday at the DRC meeting the developers heard that the District wants to do a good job on the service review and that it will take some time. Mr. Campbell says their concern is delays. He reports that the development has been basically approved by the City; that it has gone through all the environmental review and the second set of plan checks; and that they expect grading permits so they can start working on the southern portion of the project near the I-15 Freeway by the end of the year. He points out that the project is north of the I-15 and east of Hunter's Ridge, which is served by Fontana Water Company, so he says it seems sensible for Fontana Water Company to extend service to Coyote Canyon. He notes that the District has never provided service to this area, as there has been no one there to serve, and has now decided that it wants to bring pipelines down to the area since it is developing. He says their concerns are the provision of a primary water service and a second point of connection, which is required by the City. He says the developers have been talking to the District since 1999 as to how it will provide service to this area, but the District only recently began putting everything together. Mr. Campbell says they attended the July 10 City Council meeting requesting support for the detachment from the District and their application to the Public Utilities Commission (PUC) for service from Fontana Water Company because of their concern that the District would not be able to supply water in a timely manner. He reports that according to the District's General Manager, Anthony Araiza, the District authorized \$5 million to provide a pipeline from Lytle Creek down to the Coyote Canyon area and was going ahead with its construction. He says Mr. Araiza also indicated they are putting capital improvement money into the pipeline because the overall area is developing and the District needs to be prepared to serve it. He says Mr. Long, Assistant General Manager of the District, told him that the initial pipeline is close to completion and should be ready for water around the end of the

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year or early next year. Mr. Campbell says the District has already analyzed what it is doing in the area and has a long-term plan to serve a number of acres, not just Coyote Canyon; and he questions why they must hire a consultant to figure out what the District is doing in this area and to present a service review that may take six months. He says he thinks the District has the necessary information for the review and can present it by the middle of December. He says the District staff is saying they need three to six months to meet the deadline of December 15 set forth in the City's resolution. He says the District will not have a four-party agreement or a second point of connection by the deadline and that he is not sure there will be water in the primary pipeline by December 15. He says they want to get under construction in January and begin marketing those lots; that the Fontana Water Company is immediately available to supply water; and that they do not want the LAFCO process to be used to delay the December 15 deadline agreed to by the District.

Leon Long, Assistant General Manager of the District, states the District met in July with the Fontana City Council which set three conditions. He says the District was to provide a reliable water supply to the development and he reports they are working on that. He says the pipeline, which is 2½ miles and cost \$1.2 million, is in the ground; that they are waiting for the hydrostatic testing and disinfection of the pipeline; and that they will have water to the edge of the development in a couple of weeks. Next, he reports that the District Board agreed to sign the four-party agreement last Thursday; however, he says the Board President is out of town but will be back Monday to sign the agreement, which will then be forwarded to the other agencies. Mr. Long says the District believes the service review will prove they can provide water service to the whole area.

Commissioner Pearson questions why it will take so long for the District to respond for the service review. He comments that the District has committed a sizable amount of money to this project and says it was done with a fair amount of analysis and consideration on the Board's part. Mr. Long responds the District staff does not understand the components of the service review survey and they want to hire a consultant. He adds that he will request on Monday that his Board move forward with the survey and hire a consultant and says they estimate the process will take about three months. Commissioner Pearson points out that there are a number of service review proposals before the Commission today and says he does not think it took those agencies three months to prepare a response. He notes that other water agencies in the West End have been through this process and could provide the District with guidance.

Commissioner Sedano asks when the developers want to start the project and whether the District can supply water to it immediately. Mr. Long says he understands they intend on getting grading permits right after the first of the year. He says the District can supply water on a limited basis as soon as the first primary pipeline in Lytle Creek Road is completed. He says they can supply grading water, but he says the issue is the second source of connection or a second supply. Commissioner Sedano states if he were a developer, he would want to know that the District could supply potable water, not grading water. Mr. Long says that the primary pipeline will be a potable pipeline. He explains that the State Health Department requires a second source of water in case the single pipeline is damaged. He reports that the District met with Fontana Water Company and says they are reviewing their ability to provide a connection to the District on a temporary basis to provide water to the development. He says he is waiting to hear back from Fontana Water Company; that he was told that the Company needs to study their infrastructure but is ready to move forward with a service agreement once an examination of their system is complete.

Commissioner Smith comments that the secondary source of water is the issue here. Mr. Long responds that is correct, or the completion of the second pipeline in Duncan Canyon Road. He reports that the second pipeline has been designed; the CEQA process has been started on the pipeline; and that the biological assessment on the property where the pipeline will be located should be completed in about three months. Discussion follows regarding the "Section 7" consultation required with the Fish & Wildlife Service and Commissioner Mikels asks whether Mr. Long thinks that three months for that approval is optimistic or conservative. Mr. Long says that depends on how much work is put into it, which is why the District hired consultants for the process, which has been underway a couple of months.

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Jerry Eagans, an attorney representing the District, says he wants to clarify some statements made by Mr. Campbell regarding the agreement between the District, the City, and the developers of Coyote Canyon. Mr. Eagans says that three elements were agreed to by the District. First, he says the District would construct a primary pipeline. He says it has been constructed at a cost to the District of about \$5 million; that it is completed and only the testing remains to be done, which should not take longer than four weeks; and that they anticipate that to be completed by December 15. Next, he says it was agreed that the District would execute the four-party agreement by December 15. He says there is no question that the other parties are "on board" to sign the agreement, noting that the District was the last to come aboard, after its concerns were reconciled. Third, he says the District agreed that it would either have an agreement with Fontana Water Company for an intertie agreement or, and he says this is the controversial portion, that the District would show the City it had made substantial efforts in putting in a secondary pipeline. Mr. Eagans says he understands the concerns about delays and he discusses that the District will do what needs to be done for the study to be completed as quickly as possible. He explains that a consultant will be hired since the District staff is not qualified to put together the information and says if all the necessary information is in the files, then the response will be completed in two or three weeks. He points out that if that is not the case, it could take some time because they may not be able to get the necessary information from affected agencies because of the holidays. He says the true issue is whether the District can have a second source of water. He points out that Mr. Long informed the Commission that the plans for the secondary pipeline have been completed and that the consultant hired to do the environmental work related to that pipeline is making contact with the affected governmental agencies. He says given some patience, the District will get things done and be able to serve the project to everyone's satisfaction.

Commissioner Sedano asks whether the District submitted a will-serve letter to provide water to Coyote Canyon. Mr. Long responds they did about two years ago. Commissioner Sedano comments that he "rests his case."

Chairman Smith asks what would happen if the Fontana Water Company signed an agreement tomorrow to give the District a secondary source of water. Mr. Eagans responds that if they agreed to intertie with the District, then as he understands it, the City would withdraw its support for the detachment and he believes the developers represented to the City Council that the application would be withdrawn.

Commissioner Pearson asks Mr. Roddy whether the District must complete a review for the whole area. Mr. Roddy says staff has been referring to a service review that will be focused on the study area involved in the proposed detachment. He notes that the factors required by Government Code Section 56430 are not the types of things that typically are included in studies that have already been undertaken by the District and says it is defensible for the District to argue that additional work will be necessary. He reminds the Commission that the focus today is not on the question of whether or not the District has complied with these conditions or the ability of the District to serve relative to the ability of Fontana Water Company. He says those issues will be debated in a future hearing when additional information is available and he says staff cannot predict when that information will be ready.

Mike McGraw, General Manager of the Fontana Water Company, states that it is not their policy to invade another water service agency's territory, but he says they were asked by the developers whether they could serve water to the area and they indicated they could. Mr. McGraw says they met with the District regarding providing a second point of connection while the District completed the second pipeline, and indicated the Company did not have the necessary capacity due to the drought conditions and contamination in a number of wells. He says the Company has a connection on the west side of Hunter's Ridge with the Cucamonga County Water District and asked that District for an estimate of costs for necessary improvements to the Company's system so they could provide additional supply for the Coyote Canyon project. He says he is waiting to hear back from the Cucamonga County Water District about those costs. Mr. McGraw says that in conversations with the developers, it was indicated that the Company could service approximately 100 units to begin with, but that it would take additional infrastructure installation to serve the entire project.

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Commissioner Mikels comments that the Company's efforts seem to vary with their policy not to get involved. Mr. McGraw responds they just responded to the developers' request as to whether they could serve. He says they knew the project was within the District's service boundaries, but he explains the Company has facilities in place which could be extended and would be happy to serve the area if the District was unable to. In response to inquiry of Chairman Smith, Mr. McGraw explains that the Company estimated that they could serve the first 100 units in Coyote Canyon without additional infrastructure since they have a line that dead ends into the westerly edge of the project on Cherry Avenue. However, he discusses they do not have the necessary capacity to serve 650 homes without additional infrastructure. He says he is waiting for the cost estimate from the Cucamonga County Water District for providing a temporary connection to serve as the second point of connection for the District. Commissioner Sedano asks whether the developers are comfortable with the Company's ability to serve just the first 100 units and not the other 550 up front. Mr. McGraw responds they could provide grading water and water for the first 100 units, which he believes met the developers' timeframe; and he says to serve the entire project they would have the necessary infrastructure in from Duncan Canyon Road by the time it was needed.

Steve Stewart, representing the developers of Coyote Canyon, says they are concerned about the ability of the District to serve the project, and he says his interpretation of the meeting with the City is a little different than Mr. Eagans'. Mr. Stewart reports that he met with City staff and councilmembers prior to that meeting and says the whole idea was to be able to ensure a reliable source of water in a timely way. He says that good faith efforts to enter into biological surveys and doing design work on a second source of supply do not accomplish the task. He explains that they began discussions with the District back in 1999 because there were no facilities in the immediate area and they wanted there to be sufficient time for facilities to be designed, developed and installed so there would be no construction delays. He says for a project to make financial sense and to keep lenders advancing additional money, they must be confident the project will come together in a timely way; and he says a three to six month delay cannot be tolerated as it is an extreme financial burden. Mr. Stewart reports that they expect to receive grading permits from the City in December for the first phase of the project along the I-15, noting that the development will be done in phases. He says the fact that the Fontana Water Company was able to initially guarantee water for 100 units was a big factor. Regarding the permits related to the Section 7 consultation discussed by Mr. Long, Mr. Stewart says he has "been down that route" and that the minimum time for such a consultation is five months after an application is complete and all issues are resolved. He says his concerns are time and money and he does not have a comfort level that the District can accomplish what needs to be accomplished. He says that although the District has built a pipeline, entered into agreements with biologists to do survey work, and is trying to get permits to build an intertie, they have not secured an intertie from Fontana Water Company; there is no reliable second source of supply; and no building permits can be issued on the project. He says this prompted his discussions with the City and the meeting before the City Council which resulted in the conditions placed on the District.

Commissioner Mikels comments that only the first speaker addressed the staff recommendations before the Commission today. He asks Mr. Stewart their position on those recommendations. Mr. Stewart responds they agree with designating special counsel. He says they have no problem with the sphere filing fee not being waived since a service review will be required. However, he says they want to be sure that the service review goes forward as expeditiously as possible and want the Commission to be aware of the potential for abuse and the dire consequences for his project if the delay is elongated. He points out that there is no specified time limit for the District to comply and submit responses on the issue, so he says it could be three, six or nine months.

(It is noted that Commissioner Postmus leaves the hearing at 10:23 a.m.)

Commissioner Pearson comments that Commissioner Mikels correctly pointed out that the Commission can only consider and vote on the three staff recommendations and he says they cannot get into the other concerns without appropriate legal counsel. He asks whether there could be an agreement among all the players for a phased approach in terms of the water supply, with the Fontana Water Company providing an immediate source of water for the short term, with the assurance and agreement that as the District completes the project, it would become the ultimate water purveyor. He says if they do not come

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up with a way to deal with this, no one will win. He says staff may want to consider this when deliberating with the parties.

Mr. Roddy says the Commission has gotten side tracked and began to hear the problems, merits and concerns related to the service review, and he says they do not have the necessary information to make a judgment on that issue. He says an interim service approach would take agreement between the District and Fontana Water Company, but he points out that the District has indicated they are in a position to provide the necessary near-term service; that they can provide water for grading; and that the four-party agreement only needs a signature from the District President. He says the only remaining question is whether there is an intertie or secondary source of water and he says those issues need to be explored in a separate public hearing. Mr. Roddy reiterates the three staff recommendations before the Commission which are to: (1) designate special legal counsel; (2) require that a service review be conducted; and (3) deny a waiver of the filing fee for the sphere review. He says staff has indicated that it will work as quickly as possible with the District and affected parties to compile information necessary for the service review. However, he says it is impossible to provide any assurance of a hearing date because the compilation of information is in a broader scope and different form than what the District has already undertaken and needs to be assembled by a consultant, and because the information submitted by the District will need to be incorporated into the final environmental document to be prepared by Tom Dodson & Associates. He says if staff senses any "foot dragging", or a desire to play both ends against the middle, that will be reported during the status report on February 19; however, he notes that there has been no evidence of that.

Commissioner Mikels asks for clarification related to Government Code Sections 56425 and 56430. Mr. Roddy explains that Section 56425 directs the Commission to conduct sphere studies on a five-year basis and that Section 56430 requires service reviews in connection with sphere studies. Commissioner Mikels discusses that he does not understand the full depth of information required for an agency to present a final product and asks why it will take the District so long. He asks whether either section deals with the completeness of information necessary for the reviews. Mr. Roddy responds that the adequacy of the information is a decision for the Commission. He says Section 56430 provides nine factors requiring a written statement of findings and that a sphere review provides four factors which require written responses. He states that given the controversy and the fact that a sphere change is proposed, the complexity of this review will exceed what the Commission has previously experienced.

Commissioner Eshleman says development has been on-going in Fontana and Rancho Cucamonga for many years, moving easterly for a long time, and that the Fontana Water Company has been extending its service with development and meeting the demand for that growth. He says now for the District to be prepared to serve Coyote Canyon, it must make a huge investment on its own, since there has been no development in that area to pay for facilities. He says Fontana Water Company is ready to serve and that the District should have been looking at serving this area a long time ago.

Mr. Roddy reiterates that the District has made a significant investment to extend a primary pipeline to the serve the area and that the pipeline is ready to go pending final tests, which should take about a week. He says that water will be available for grading purposes. He notes that the agreement is completed from a policy standpoint and says the only remaining issue is that of a secondary source of water. He says there are two alternatives for the secondary source: (1) the extension of a secondary line for which the District has obtained easements and is in the process of environmental review prior to the extension of the infrastructure; or (2) an intertie with Fontana Water Company requiring their consent and potential improvements to their infrastructure. He says the Commission today, however, must focus on the recommendations he previously outlined.

Chairman Smith asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Mikels moves approval of staff recommendation, seconded by Commissioner Colven.

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Commissioner Sedano reiterates Commissioner Pearson's comments, stating that right now this is a lose/lose situation for everyone. He suggests that everyone meet and come to an agreement so that progress can go forward. He says no one will make any money until development gets started.

Chairman Smith says he agrees with Commissioner Sedano that the people should get together and work this out. He calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

The Commission takes a break at 10:40 a.m. and reconvenes with no change in Commissioners present.

CONTINUED ITEMS

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2896; AND (2) LAFCO 2896 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR CITY OF MONTCLAIR (CONTINUED FROM OCTOBER 16, 2002) AND CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2902; AND (2) LAFCO 2902 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR MONTE VISTA FIRE PROTECTION DISTRICT (CONTINUED FROM OCTOBER 16, 2002) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing, continued from October 16, 2002, to consider a service review and sphere of influence study for the City of Montclair (hereinafter referred to as "the City") and the Monte Vista Fire Protection District (hereinafter referred to as "the District"). Notice of the original hearing was advertised as required by law through publication in *The Sun* and *Inland Valley Daily Bulletin*, newspapers of general circulation in the area, and individual notification was provided to affected and interested agencies, County departments, and those individuals wishing mailed notice.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy says the City is a full service City, except for water service which is provided by the Monte Vista Water District. He points out the City's boundaries on the display map. He says the City is not proposing any changes to its sphere and that staff is recommending that its existing sphere be affirmed and upheld. He notes that the City is working on some annexations in the southern portion of its sphere.

Commissioner Mikels inquires about the island of incorporated territory within the City of Montclair's sphere. Mr. Roddy explains that it is a City-owned reservoir which has been in the City for decades. He says a city can annex noncontiguous territory that it owns.

Mr. Roddy discusses the Monte Vista Fire Protection District, which he says overlays the unincorporated sphere of the City, in addition to a small unincorporated island of territory located within the City of Upland's sphere. He points out the District's boundaries on the display map. He reports that since the early 1980's, the District has contracted with the City to provide fire protection and emergency medical response services to the unincorporated areas in the south, as well as the small island in the City of Upland's sphere. He points out that the District is only a "paper" district that serves as a conduit for property tax revenues generated in the area to be transferred to the City to fund the contract. He says staff is recommending that the Commission initiate dissolution of the District, as authorized by Government Code Section 56375(a), based on the two findings required by Government Code Section 56881(b), which are listed in the staff report.

(It is noted that Commissioner Mikels leaves the hearing at 10:55 a.m.)

Mr. Roddy suggests that the Commission initiate a proposal to dissolve the District, but defer that hearing until after the City of Upland completes the annexation of the small island. He says that would remove that territory from the District, leaving the balance of the District within the City of Montclair's sphere,

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making it cleaner to dissolve the District and transfer its function wholly to the City. He reports that the City of Upland has indicated that it is working on the annexation of that island, but he says there is no target date for its initiation. Mr. Roddy states that the staff recommendation is that the Commission: (1) determine that LAFCO 2896 and LAFCO 2902 are statutorily exempt from environmental review and direct the Clerk to file Notices of Exemption; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the City of Montclair should not be changed; (3) determine that none of the service review factors for the Monte Vista Fire Protection District are applicable since the District functions are provided by the City, and determine that the sphere of influence of the District shall be coterminous with the sphere of the City; (4) initiate proceedings for the dissolution of the District and schedule those proceedings subsequent to the successful annexation of an unincorporated island to the City of Upland with the findings required by Government Code Section 56881(b); and (5) adopt LAFCO Resolution No. 2743 (City) and LAFCO Resolution No. 2751 (District) setting forth the Commission's findings and determinations.

Commissioner Sedano asks why the annexation of the island cannot be done quickly, since it is less than 75 acres. Mr. Roddy responds that the City of Upland has not initiated the island annexation yet because it is working at the same time on an annexation in the College Heights area, which is taking longer because it requires a more detailed service review and lengthier land use study for rezoning.

Commissioner Curatalo asks whether the dissolution of the District would have to be "all of it or none of it". Mr. Roddy responds that the whole District would be dissolved; but he points out that as a function of the annexation of the island area to the City of Upland, it would be detached from the District, leaving the District wholly within the City of Montclair's sphere. He explains that this element of the staff recommendation only initiates a hearing process and that the Commission is making no predetermination of whether it will approve or deny dissolution of the District.

Chairman Smith opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Bagley moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2903; AND (2) LAFCO 2903 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR CITY OF RANCHO CUCAMONGA (CONTINUED FROM OCTOBER 16, 2002) AND CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2904; AND (2) LAFCO 2904 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR RANCHO CUCAMONGA FIRE PROTECTION DISTRICT (CONTINUED FROM OCTOBER 16, 2002) - APPROVE STAFF RECOMMENDATIONS

LAFCO conducts a public hearing, continued from October 16, 2002, to consider a service review and sphere of influence study for the City of Rancho Cucamonga (hereinafter referred to as "the City") and the Rancho Cucamonga Fire Protection District (hereinafter referred to as "the District"). Notice of the original hearing was advertised as required by law through publication in The Sun and Inland Valley Daily Bulletin, newspapers of general circulation in the area, and individual notification was provided to affected and interested agencies, County departments, and those individuals wishing mailed notice.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy reports that the City provides the basic city services; that it provides law enforcement through a contract with the County Sheriff; that it receives water service from the Cucamonga County Water District; and that it receives fire protection from the Rancho Cucamonga Fire Protection District, which is a subsidiary district of the City. He says the District has no where to go since its boundaries are coterminous with its sphere and is requesting that

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its existing sphere be affirmed. He says that is also true for the City, which has indicated that it does not envision any near term, substantial sphere changes, with one exception. He discusses the potential for a boundary reorganization involving a small area in the proposed development known as "The Colonies" within the City of Upland, which has been discussed by the two City Councils. He points out, however, that an agreement has not been reached; and he says that according to City staff, there is no foreseeable boundary change that will occur based on current positions.

Mr. Roddy states that the staff recommendation is that the Commission: (1) determine that LAFCO 2903 and LAFCO 2904 are statutorily exempt from environmental review and direct the Clerk to file Notices of Exemption; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing spheres of influence for the City of Rancho Cucamonga and the Rancho Cucamonga Fire Protection District should not be changed; and (3) adopt LAFCO Resolution No. 2754 (City) and LAFCO Resolution No. 2755 (District) setting forth the Commission's findings and determinations.

Chairman Smith opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2905; AND (2) LAFCO 2905 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR CUCAMONGA COUNTY WATER DISTRICT (CONTINUED FROM OCTOBER 16, 2002) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing, continued from October 16, 2002, to consider a service review and sphere of influence study for the Cucamonga County Water District (hereinafter referred to as "the District"). Notice of the original hearing was advertised as required by law through publication in The Sun and Inland Valley Daily Bulletin, newspapers of general circulation in the area, and individual notification was provided to affected and interested agencies, County departments, and those individuals wishing mailed notice.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy commends the District Board of Directors and its staff for their comprehensive response to the service review factors. He reports that the District provides retail water service and sewage collection. He points out the boundaries of the District on the display map, noting that they exceed the boundaries of the City of Rancho Cucamonga, and that the District serves areas within Fontana and southerly of Rancho Cucamonga. Mr. Roddy says the responses to the factors have been identified in the draft resolution attached to the staff report and that the staff recommendation is that the Commission: (1) determine that LAFCO 2905 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the Cucamonga County Water District should not be changed; and (3) adopt LAFCO Resolution No. 2756 setting forth the Commission's findings and determinations. He states that Commissioner Curatalo, who is a member of the District's Board, and staff of the District are available if there are any questions.

Chairman Smith opens the public hearing and asks if there is anyone wishing to speak on this item.

Commissioner Pearson states that if a member of the District staff is present, he would like to know how long it took to put together this very thorough report.

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Jolynne Russo-Pereyra, Manager of Public Affairs of the District, states that she has been working on the report on and off for a couple of months, but says she worked on it diligently for about a week and a half. Commissioner Pearson comments that he did not think it took three to six months, referring to the earlier discussion related to a service review for the West San Bernardino County Water District. He says this report shows the Commission that a response to the factors can be prepared in a very thorough and professional manner, without taking so much time.

Commissioner Curatalo discusses that the District is a very well-run organization and says he and the other Board members are very impressed with the General Manager and staff. He says all the information provided in the report was readily available and accurate and says he salutes the staff for being able to do the report.

Chairman Smith asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

DISCUSSION ITEMS

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION WITH MITIGATION MEASURES PREPARED BY COUNTY OF SAN BERNARDINO FOR GENERAL PLAN LAND USE DISTRICT AMENDMENT FROM RS-1 TO RS-20M ON 10 ACRES AND TENTATIVE TRACT 16108 AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#188; AND (2) LAFCO SC#188 - IRREVOCABLE AGREEMENT TO ANNEX FOR SEWER SERVICE, CITY OF CHINO (TRACT 16108--YOUNG HOMES - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider an application submitted by the City of Chino (hereinafter referred to as "the City") to provide sewer service outside its corporate boundaries in response to a request for sewer service by the developer of Tentative Tract 16108. Notice of this hearing was advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area.

Deputy Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the City's application is to provide sewer service to 33 single-family residences proposed to be developed on 18.74 acres in a gated community, generally located on the east side of East End Avenue, between Francis Avenue and Philadelphia Street, within the City's northwestern sphere of influence. She reports that the County of San Bernardino Land Use Services Department processed a General Plan Amendment and Tract development approval and says the City staff has coordinated with the County on the review of the development project. She notes that the Conditions of Approval placed on this project include the requirement for connection to the City's sewer system. Ms. McDonald says the staff report outlines the costs involved for hook-up to the City's sewer system and she says the future homeowners will pay two times the in-City rates. She says this application has been reviewed against the criteria established by Commission policy and Government Code Section 56133 and that the required findings are listed in the staff report. She says the staff recommendation is that the Commission: (1) take the actions related to environmental review listed in the staff report; (2) approve SC#188; and (3) adopt LAFCO Resolution No. 2760 setting forth the Commission's findings, determinations and approval for the extension of sewer service outside the City's boundaries.

Chairman Smith opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

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Commissioner Bagley moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2899; AND (2) LAFCO 2899 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR CITY OF CHINO HILLS - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence study for the City of Chino Hills (hereinafter referred to as "the City"). Notice of this hearing was advertised as required by law through publication in The Sun and Inland Valley Daily Bulletin, newspapers of general circulation in the area, and individual notification was provided to affected and interested agencies, County departments, and those individuals wishing mailed notice.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy discusses that the City is "landlocked", with no opportunities for a sphere change or expansion without a County boundary change. He reports that there is a little "nub" of the City of Chino extending west of Highway 71, which could be a candidate for a future boundary reorganization. He says there have been informal discussions between the two City Councils on a boundary reorganization in that area, but he says neither City has indicated an interest in pursuing that in the foreseeable future. He notes that the City receives law enforcement services through a contract with the County of San Bernardino, fire protection from the Chino Valley Independent Fire Protection District, vector control from the West Valley Mosquito and Vector Control District, and wholesale water from the Monte Vista Water District. He says the City provides administrative, legislative, land use planning, code enforcement, road maintenance, drainage, retail water and sewage collection services. Mr. Roddy says the City has not requested any sphere changes and says the staff recommendation is that the Commission: (1) determine that LAFCO 2899 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the City of Chino Hills should not be changed; and (3) adopt LAFCO Resolution No. 2761 setting forth the Commission's findings and determinations.

Chairman Smith opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Williams moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2906; AND (2) LAFCO 2906 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE STUDY PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR CITY OF FONTANA - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence study for the City of Fontana (hereinafter referred to as "the City"). Notice of this hearing was advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area, and individual notification was provided to affected and interested agencies, County departments, and those individuals wishing mailed notice.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy states that the City's response to the service review factors is attached to the staff report. He discusses that the City provides a broad range of services and says it receives retail water primarily from the Fontana Water Company, with exceptions in the easterly area, which are served by the West San Bernardino County Water District and the westerly

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area, which are served by Cucamonga County Water District. He says the City receives fire and emergency medical service from the Central Valley Fire Protection District. He says that City staff has taken a hard look at the City's existing sphere and has indicated that no sphere changes are envisioned in the next five years. He notes that City staff is present if there are any questions. Mr. Roddy says the staff recommendation is that the Commission: (1) determine that LAFCO 2906 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the City of Fontana should not be changed; and (3) adopt LAFCO Resolution No. 2762 setting forth the Commission's findings and determinations.

In response to inquiry of Chairman Smith, Mr. Roddy explains that although the Central Valley Fire Protection District is functionally a part of the County Fire Department, it is a separate legal entity formed under Fire Protection Law, with distinct boundaries and a budget for the area it services.

Chairman Smith opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Colven compliments the City for its recommendation listed under the factor related to Government Structure Options that the island provisions in Cortese-Knox-Hertzberg be revised to delete the acreage limitation on unincorporated islands. He says that may be something the CALAFCO Legislative Committee will want to look at.

Commissioner Williams moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Mikels and Postmus.

PENDING LEGISLATION ORAL REPORT

Mr. Roddy announces that he has no legislation report this month.

EXECUTIVE OFFICER'S ORAL REPORT

Mr. Roddy reports that the Commission has now completed 14 service reviews and sphere of influence studies for the entire West Valley, with the exception of three agencies. He discusses that the 14 agencies that have been reviewed were happy with their spheres and their governance was clear; however, he says they will begin departing from that as they move on to the other areas.

Mr. Roddy discusses the three agencies in the West Valley whose service reviews have not been completed, the first of which is the West Valley Mosquito and Vector Control District. He says that District includes all of Chino and Chino Hills and parts of Ontario and Montclair, and serves by contract portions of the Cities of Rancho Cucamonga and Upland. He says the District is funded through a special assessment levied on a per parcel basis and that the District may propose expansion of its boundaries to include Rancho Cucamonga, Upland and Montclair on the basis of those contracts. He says he advised the District Manager to talk to the Cities and only propose expansion with their consent. He says those discussions are still under way.

Mr. Roddy says the service review for the Central Valley Fire Protection District has not been completed yet because the District is involved in a larger audit of fire protection responsibilities being undertaken by the County Fire Department. He says the information developed through that audit may be relevant to the service review factors.

Mr. Roddy discusses the Inland Empire West Resource Conservation District, which he says was established because of the primarily agricultural nature of the area at that time. He notes that the area is no longer agricultural to the extent it was and says, given the urbanization of the area, the question is whether the services of that District should be continued. He says there are also questions related to the issues of governance, public awareness and public accountability of this District, which most people do

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not know exists. He says the Commission may recall the financial problems and alleged illegal activities purported to have been undertaken by previous staff of the District. He notes that the majority of the Board of Directors and staff are new and says the District is attempting to "turn a corner", but says the Commission will need to review the question of governance of the District and questions regarding its continued existence. He says there should be a widely-advertised public hearing regarding this District and that input should be sought from overlaying agencies and affected citizens.

Commissioner Williams asks whether an expansion of the Vector Control District's boundaries will require a vote of the people since the imposition of an assessment will be involved. Mr. Roddy responds that according to an Attorney General opinion it would not, because the citizens in the annexation area will be given an opportunity to vote on the annexation issue and extension of the assessment through their ability to protest the action. Legal Counsel Clark Alsop comments that this issue relates to Proposition 218. He says the argument is that a new tax or assessment is not being established through the annexation; but it is only being extended into another area; and that citizens can protest the annexation and extension of the assessment through the LAFCO process. He points out, however, that since that opinion, no court cases have looked directly at that issue.

Mr. Roddy states that a December meeting will not be necessary and that the next meeting will be January 15. He says that at that meeting staff will ask the Commission to initiate the East Valley service reviews, noting that there are some sphere changes that may be appropriate; that others will be routine; and that some will be controversial.

(It is noted that Commissioner Eshleman leaves the hearing at 11:40 a.m.)

Mr. Roddy announces that Commission has lost Mr. Mikels and Mr. Eshleman as members of the Commission through the election process. He says that Mr. Mikels had the longest tenure of any Board of Supervisors member through the history of the Commission. He asks that resolutions of appreciation be adopted for presentation at the January hearing. Resolutions are unanimously adopted on motion of Chairman Smith, seconded by Commissioner Pearson. Mr. Roddy reports that he has been told that the Board of Supervisors will designate a LAFCO member in late December. He says the City Selection Committee must meet to replace Mr. Eshleman and he says it will probably be the end of February when that will take place.

Mr. Roddy states the CALAFCO Conference was enjoyed by all who attended it. He reports that CALAFCO is urging that membership be divided among regions and that periodic regional meetings be held with staff and commissioners in a retreat-type environment. He says there was a broad consensus that this would be helpful.

On behalf of the staff, Mr. Roddy wishes the Commission a Happy Thanksgiving, Merry Christmas and holiday season, and a Happy New Year. Commissioner Williams comments that the Commission would not have accomplished its goals this year without the efficiency of the staff.

Chairman Smith comments that one of the important issues discussed at the CALAFCO Conference was regionalization. He says it will be a big plus for the Southern California region to get together to discuss the key issues affecting Southern California, such as water and transportation. Commissioner Pearson notes that Adam Firestone of the Firestone Winery in the Santa Ynez Valley was a very dynamic speaker. He says he would not mind having him speak to the Commission or at one of the regional meetings.

COMMENTS FROM THE PUBLIC

Chairman Smith calls for comments from the public. There are none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, ON MOTION BY COMMISSIONER PEARSON, SECONDED BY COMMISSIONER WILLIAMS, THE HEARING IS ADJOURNED AT 11:50 A.M.

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ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

GERALD W. SMITH, Chairman